

IN THE COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

**WRIT PETITION NO. 4902 /2015**

(Komalkant Anilrao Patil vs. The State of Maharashtra and others)

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Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
of directions and Registrar's orders

Court's or Judge's order

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Shri V. A. Kothale, Advocate for the petitioner  
Miss T. Khan, Assistant Govt. Pleader for Respondent Nos.1 & 2

CORAM : SMT. VASANTI A. NAIK &  
A.I.S. CHEEMA, JJ.

DATED : 19<sup>th</sup> October, 2015.

Heard.

By this petition, the petitioner seeks a declaration that the petitioner is entitled to the protection of his services.

The petitioner was appointed on 31.8.2009 as a Lecturer in Chemical Engineering, in the respondent-Polytechnic College. The appointment of the petitioner was on contract basis and after the expiry of the term of contract, the services of the petitioner came to an end. The petitioner was re-appointed on contract basis, and it is stated on behalf of the petitioner that the petitioner continued in service till 2011. Since the services of certain other Lecturers working in Polytechnic

Colleges are protected, in view of the judgment dated 19.10.2013 in Writ petition No.2046/2010, the petitioner has sought the protection of his services. The petitioner has sought a direction to the respondents to re-appoint the petitioner in service and protect his services.

We had dismissed an identical Writ Petition bearing Writ Petition No. 4893/2015 on 15<sup>th</sup> October, 2015 and when we were about to dismiss the present Petition, the learned counsel for the petitioner had sought some time to take instructions from the petitioner for withdrawal of the Writ Petition. Today, the learned counsel for the petitioner has tendered a *pursis* in the Court. It is stated that the petitioner is ready to withdraw the Writ Petition but a direction may be issued to the Government to decide the representation of the petitioner, as was directed to be decided in a couple of Writ Petitions filed before the Aurangabad Bench.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner in the instant petition cannot be granted. The services of the Lecturers working in Polytechnic Colleges are protected only if certain conditions are satisfied. The first condition is that the Lecturer should have been selected by a duly constituted Selection Committee and he/she

should have worked as a Lecturer for a period of at least three years. The second condition is that the Lecturer should be in service at the time of seeking the relief of protection of their services. Both the conditions are not satisfied in the case of the petitioner, inasmuch as the petitioner has not completed three years of service with the respondent-College and the petitioner was not in service as on the date of filing of the petition. The petitioner is out of service since 2011.

In such circumstances, we are not inclined to grant permission to the petitioner to make a representation to the State Government. The said representation would generate one more petition after the representation is decided. The petitioner is also not entitled to claim protection of his services as a Lecturer vide the Government Resolution, dated 31.3.2015, as the petitioner has not worked as a Lecturer for three years and the petitioner was not in service on the date of filing of the petition.

In view of the aforesaid, we decline permission to the petitioner to withdraw the Writ Petition as the petitioner is not seeking permission simpliciter for withdrawal, but is seeking permission for withdrawal, on the condition that a direction be issued to the Government to decide the representation of the petitioner. In the

circumstances of the case, we dismiss the Writ  
Petition with costs.

**JUDGE**

**JUDGE**

*sahare*